

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CURWOOD-LEWIS PRICE,

Plaintiff,

v.

Case Number 14-14481  
Honorable David M. Lawson

ANDY DILLON, JOHN E. NIXON, CATHY  
M. GARRETT, and RUTH JOHNSON,

Defendants,

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**OPINION AND ORDER DISMISSING THE PLAINTIFF'S COMPLAINT AND  
DENYING PLAINTIFF'S APPLICATION TO PROCEED WITHOUT PREPAYING  
FEES OR COSTS AND MOTION FOR DISCOVERY**

This matter is before the Court on plaintiff Curwood-Lewis Price's *pro se* complaint. The plaintiff, a state prisoner currently incarcerated at the Lakeland Correctional Facility in Coldwater, Michigan, asks the Court to file a lien against the defendants for allegedly seizing his property unlawfully. On December 1, 2014, Magistrate Judge R. Steven Whalen signed an order of deficiency requiring the plaintiff to submit an application to proceed without prepayment of fees and costs or to pay the required filing fee. The plaintiff filed an application to proceed without prepayment of fees or costs on January 26, 2015 along with a motion to proceed and for discovery. However, the Court has since further reviewed the plaintiff's complaint and concludes that the plaintiff cannot proceed *in forma pauperis* because at least three of the plaintiff's prior civil rights complaints have been dismissed as frivolous, malicious, or for failing to state a claim upon which relief could be granted in violation of 28 U.S.C. § 1915(g). The Court therefore will deny the plaintiff's application, motion to proceed and for discovery, and dismiss the plaintiff's complaint.

The Prison Litigation Reform Act of 1995 ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321

(April 26, 1996) precludes a prisoner from bringing a civil action *in forma pauperis* if a court previously dismissed three or more complaints as frivolous, malicious, or for failing to state a claim upon which relief may be granted unless the prisoner is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g) (1996); *Thaddeus-X v. Blatter*, 175 F. 3d 378, 400 (6th Cir. 1999); *Witzke v. Hiller*, 966 F. Supp. 538, 540 (E.D. Mich. 1997). A federal district court may raise the three strikes provision *sua sponte*, *Witzke*, 966 F. Supp. at 539, and may take judicial notice of a plaintiff's prior dismissals, *Green v. Nottingham*, 90 F. 3d 415, 418 (10th Cir. 1996); *Anderson v. Sundquist*, 1 F. Supp. 2d 828, 830 (W.D. Tenn. 1998).

Courts have dismissed at least three of the plaintiff's prior civil rights complaints as frivolous, malicious, or for failing to state a claim upon which relief could be granted. *See Price v. Hoffner*, No. 1:12-CV-1185, 2012 WL 6563112 (W.D. Mich. December 17, 2012); *Price v. United States of America*, No. 2:11-CV-15166, 2011 WL 5975292 (E.D. Mich. Nov. 29, 2011); *Price v. Third Circuit Court Crim. Div.*, No. 2:11-CV-11325, 2011 WL 2600637 (E.D. Mich. June 30, 2011). And the plaintiff has not alleged any facts in his complaint to suggest that he is in imminent danger of serious physical injury. The Court therefore will dismiss the plaintiff's complaint pursuant to 28 U.S.C. § 1915(g).

The plaintiff may revive any of the claims dismissed under 28 U.S.C. § 1915(g) if he decides to pay the \$350 filing fee. *See* 28 U.S.C. § 1914; *Witzke*, 966 F. Supp. at 540. If the plaintiff is unable to pay the full amount, he may submit a partial filing fee and pay the remainder in installments. *See* 28 U.S.C. § 1915(a); *Miller v. Campbell*, 108 F. Supp. 2d 960, 962 (W.D. Tenn. 2000).

Accordingly, it is **ORDERED** that plaintiff Curwood-Lewis Price's complaint is

**DISMISSED** pursuant to 28 U.S.C. § 1915(g).

It is further **ORDERED** that the plaintiff's application to proceed without prepaying fees or costs [dkt. #8] is **DENIED**.

It is further **ORDERED** that the plaintiff's motion to proceed and for discovery pursuant to Federal Rules of Civil Procedure 69(a)(2) [dkt. #7] is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: January 30, 2015

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 30, 2015.

s/Susan Pinkowski  
SUSAN PINKOWSKI